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Rights to freedom of peaceful assembly and of association

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, submitted in accordance with Human Rights Council resolution 21/16.

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Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association

Summary

The present report constitutes the first report to the General Assembly of the Special Rapporteur on the rights to freedom of peaceful assembly and of association. It addresses concerns about the exercise of the rights to freedom of peaceful assembly and of association in the context of elections. The Special Rapporteur is deeply concerned about increasing human rights violations and abuses, which are being committed in several parts of the world against those who exercise or seek to exercise such rights in the context of elections and which indelibly mar such elections.

I. Introduction

1. The mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association was established by the Human Rights Council in its resolution 15/21 for an initial period of three years. The Council appointed Maina Kiai as Special Rapporteur on the rights to freedom of peaceful assembly and of association in March 2011, with a starting date of 1 May 2011. The present report is the first report submitted to the General Assembly by the Special Rapporteur, in response to the request by the Council, in its resolution 21/16, that an annual report be presented to the General Assembly. The report addresses concerns about the exercise of the rights to freedom of peaceful assembly and of association in the context of elections, and should be read in conjunction with the Special Rapporteur's thematic reports to the Human Rights Council (A/HRC/20/27 and A/HRC/23/39).

2. Every year, elections, plebiscites and referendums are conducted at various levels, including at the presidential, legislative and local levels in many countries. The high-stakes competition that characterizes most elections has seen widespread violations of human rights, including the right to life, freedom of expression, freedom of peaceful assembly and freedom of association. From the perspective of the Special Rapporteur, the rights to freedom of peaceful assembly and of association have increasingly come under attack as incumbent or incoming regimes seek to retain or gain power at all costs. The Special Rapporteur is convinced that the context of elections deserves special focus because the ability of individuals and associations to form and operate freely is particularly at risk during those periods. The Special Rapporteur is persuaded to draw this conclusion as a result of the increasing complaints he has received concerning harassment, intimidation and the undue restrictions placed on individuals, associations and their members in the run-up to or following contested elections.

3. In writing the present report, the Special Rapporteur benefited greatly from participating in a one-day expert meeting held in Geneva on 1 June 2013. The Special Rapporteur would like to thank all those who were involved in organizing the meeting, and all those who shared their experiences to inform the report, both at that meeting and in other forums.. The Special Rapporteur also took into account relevant elements of work available within the Council.[1] The country situations mentioned in the present report have been the subject of communications sent to Governments, as well as press releases and reports issued by special procedures mandate holders and high-level United Nations officials.

II. Rights to freedom of peaceful assembly and of association as integral part to free and fair elections

A. Democracy and freedom of peaceful assembly and of association

4. Democracy, as a system through which the people participate directly or indirectly in the conduct of public affairs, has broad appeal across the globe.

[1] This includes the report of the Special Rapporteur on the situation of human rights in Belarus, with a focus on human rights in the electoral processes (A/68/276).

Elections, referendums and plebiscites, in which people choose their representatives and express their choice of laws or policies, are held in the majority of countries in the world. As stipulated in article 21 (3) of the Universal Declaration of Human rights, democracy is a process in which "[t]he will of the people [is] to be the basis of the authority of government". It is commonly thought of as a process with regular periodic, free and competitive elections to decide on policies directly or indirectly through chosen representatives that must be accountable to their electorate. In other words, democracy, as reflected in the electoral process, generally involves the use of clear predictable processes with uncertain outcomes, while a non-democracy can be identified by the fact that the whole electoral process is characterized by unclear and uncertain processes but with predictable outcomes. Nevertheless, the quality of elections is increasingly coming under scrutiny in order to ensure that election outcomes are representative of the will of the people. Elections confer legitimacy on Governments; if those elections are not considered to reflect the will of the people, therefore, a sense of discontent and disenfranchisement may result and sometimes cause violent conflict. In order to sustain the democratic ideal, it is necessary for regimes to uphold the rule of law, respect and protect human rights and remain vigilant and responsive to peoples' views and opinions at all times.

5. The right to freedom of peaceful assembly and of association are pertinent to the democratic process, both during the election period and between elections. The Special Rapporteur reiterates that these rights are essential components of democracy since they empower women, men and youth to "express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable" (Council resolution 15/21, preamble).

6. More specifically, the rights to freedom of peaceful assembly and of association are a critical means for individuals and groups of individuals to participate in public affairs. The exercise of such rights provides avenues through which people can aggregate and voice their concerns and interests and endeavour to fashion governance that responds to their issues. For example, such rights are essential in order to campaign and participate in public rallies, form political parties, participate in voter education activities, cast votes, observe and monitor elections and hold candidates and elected officials accountable.

7. International law contains principles and standards by which the electoral process and outcomes can be measured. Approaching assessments by recognizing that States have accepted certain legal commitments and that the elections they conduct should meet those commitments provides uniformity and objectivity to election observation. The universality, interrelatedness and interdependence of human rights are also reinforced by States having the responsibility to ensure the exercise of all rights during the electoral process in order to achieve positive outcomes. Such an approach recognizes that a successful electoral process goes beyond the events on the day that votes are cast. The legal framework, political environment and institutional capacities before, during and after polling day, have an impact on how rights are enjoyed. In addition, the Special Rapporteur believes that an electoral process, in which widespread barriers are systematically placed on the exercise of the rights to freedom of peaceful assembly and of association, cannot be said to be either free or fair and, as such, the outcome should not be considered to be the result of "genuine" elections, as required under international law.

8. The maintenance of peace during the voting process is necessary for the electorate to turn out and exercise their right to vote. Nevertheless, although important, it should not provide a justification for continuing electoral malpractices and unjustifiable restrictions on the rights to peaceful assembly and of association or other rights, for example, unlimited and uncontrolled bans on protests or demonstrations against election results. Where such rights are violated at any point during the electoral process, prompt and effective remedies should be available and accessible, presided over by impartial arbiters.

9. In the present report, the Special Rapporteur focuses on the role of associations broadly, including political parties, as central vehicles through which individuals can take part in the conduct of peaceful affairs through chosen representatives. Political parties have an essential role to play "in ensuring pluralism and the proper functioning of democracy".[2] The present report adopts the definition of a political party as "a free association of persons, one of the aims of which is to participate in the management of public affairs, including through the presentation of candidates to free and democratic elections".[3] Of significance is the fact that a political party is an "association" (A/HRC/20/27, paras. 51-52), albeit a specialized one that may be regulated by separate legislation and that is subject to rules different from those of other associations. The Special Rapporteur considers the key difference between political parties and other associations to be the ability of political parties to present candidates for elections and to subsequently form governments, should those candidates win in genuine elections. Hence, he stresses that the engagement of civil society organizations in the electoral process should not lead to their being involuntary labelled or treated as political parties simply as a result of their having participated in public life in the way in which they have chosen.

10. The Special Rapporteur also acknowledges that, while only a segment of civil society organizations can work directly on election-related issues, such as voter education, election observation, the reform of electoral institutions and the accountability of candidates and elected officials, the election period provides a prime opportunity for a broader range of civil society organizations to engage with would-be elected representatives, highlight their concerns and interests, with a view to getting policy responses, and in general exercise their rights to participate in public affairs. For that reason, any discussion of the rights to freedom of peaceful assembly and of association in the context of elections must be inclusive of all civil society organizations, regardless of their areas of focus.

11. The term "elections" as used in the present report includes those held to choose presidential, legislative and local administrative representatives, plebiscites and referendums. The electoral period does not always fit into a neat temporal delineation. Indeed, it is arguable that the end of one election period — to the extent that this is determinable — signals the beginning of the next. Some events in the election process may be capable of a definite time allocation, for example, voter education, campaign period, voting day(s) and vote counting. However, other activities that are relevant to the process may be ongoing, continuing long after voting

[2] European Court of Human Rights, *United Communist Party of Turkey and Others v. Turkey*, Application No. 20/1997/804/1007, 25 May 1998, para. 41.

[3] Organization for Security and Cooperation in Europe (OSCE)/Office for Democratic Institutions and Human Rights and the Venice Commission, *Guidelines on Political Party Regulation*, (Warsaw/Strasbourg, 2011), para. 9.

has been done, such as legislative reform and institution strengthening. By describing the scope of the present report as covering the period before, during and after elections, the Special Rapporteur seeks to convey that the context of elections is not about a specific event or a particular time period, for example, voting day — although casting one's vote is a pivotal moment in elections. The Special Rapporteur notes that elections are often highly charged contests at which much lies at stake for authorities and the electorate. In that context, States have an obligation to respect and facilitate the rights to freedom of peaceful assembly and of association throughout the entire process.

B. International legal framework related to the rights to freedom of peaceful assembly and of association in the context of elections

12. In its resolution 15/21, the Human Rights Council calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, including in the context of elections. In addition to the notion of democracy, the rights to freedom of peaceful assembly and of association are implicit in the right to take part in the Government of one's country, as affirmed in the Universal Declaration of Human Rights, which states in article 21 (3) that "[t]he will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures". Similarly, article 25 of the International Covenant on Civil and Political Rights affirms every citizen's right without prohibited distinctions and unreasonable restrictions: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; and (c) to have access, on general terms of equality, to public service in his country.[4] The Human Rights Committee recognizes that the full enjoyment of those rights depends on the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives, which requires the free exercise of the rights to peaceful assembly and association, among other rights (general comment No. 25, para. 25). The General Assembly, in its resolution 59/201 declared that freedom of association and peaceful assembly were essential elements of democracy, together with the right to vote and to be elected at genuine periodic free elections, and encouraged the strengthening of political party systems and civil society organizations.

13. The centrality of the rights to freedom of peaceful assembly and of association in the context of elections is affirmed in various other international and regional human rights treaties[5] and other bodies.[6] Member States of the African Union in the

[4] See also article 7 of the Convention on the Elimination of Discrimination against Women; article 29 of the Convention on the Rights of Persons with Disabilities; article 23 (1) (b) of the American Convention on Human Rights; article 13 of the African Charter on Human and Peoples' Rights; article 33 of the Arab Charter on Human Rights; and para. 25 of the Human Rights Declaration of the Association of Southeast Asian Nations.

[5] See, for example, article 7 (b) of the Convention on the Elimination of Discrimination against Women and article 29 (b) (i) of the Convention on the Rights of Persons with Disabilities.

[6] Declaration on free and fair elections, adopted by the Inter-Parliamentary Council at its 154th session (Paris, 26 March 1994).

Declaration on the Principles Governing Democratic Elections in Africa (sect. III (d)) explicitly commit themselves to safeguarding the human and civil liberties of all citizens, including the freedom of movement, assembly, association, expression, and campaigning, as well as access to the media on the part of all stakeholders, during electoral processes. The Organization for Security and Cooperation in Europe Copenhagen Document,[7] which outlines the commitment of member States in the field of elections, explicitly guarantees the rights of peaceful assembly and of association (paras. 9.2 and 9.3). Although other regional instruments on democracy do not explicitly refer to the right to freedom of association, they recognize that political parties and other forms of associations are vital components for the strengthening of democracy.[8]

14. The variety of instruments that explicitly or implicitly recognize the ability of political parties and other forms of associations to form and operate within the context of elections or, more generally, democracy, is an indicator of consensus at least at the standard-setting level around the centrality of those rights. The Special Rapporteur's experience on the implementation of those rights is less optimistic. He notes that, in the context of elections, rights are more susceptible to restriction, and therefore urges strict adherence to international human rights standards. Although freedom must be the rule and restrictions the exception (A/HRC/20/27, para. 16, A/HRC/23/39 para. 18), the Special Rapporteur deplores the fact that, in too many instances, restrictions aim to stifle critics and do not comply with international law, that is: to be prescribed by law, and to be necessary in a democratic society in the interests described in articles 21 and 22 of the International Covenant on Civil and Political Rights.[9]

15. The significance of equal protection of the rights to peaceful assembly and association in the context of elections for everyone is heightened in the context of elections because of the potential for the exacerbation of vulnerabilities during this period. The Special Rapporteur notes the inclination of actors in the electoral contest to exploit racial, ethnic, religious, political, national or social origin, among other distinctions explicitly prohibited in article 2 of the International Covenant on Civil and Political Rights, with a view to excluding opponents. He emphasizes that these rights are guaranteed for everyone on the basis of equality (A/HRC/20/27, para. 13), and that States therefore have the obligation to offer effective protection against discrimination. In the context of elections, any temporary measures designed to enhance the ability of marginalized groups or groups most at risk to exercise their rights, such as women, victims of discrimination because of their sexual orientation and gender identity, youth, persons belonging to minorities, indigenous peoples, non-nationals, including stateless persons, refugees or migrants, and members of religious groups, as well as activists advocating economic, social, and cultural rights, and used as a mechanism to level the playing field, do not constitute discrimination.

[7] Available at www.osce.org/odihr/elections/14304.

[8] African Charter on Democracy Elections and Governance, articles 3, 12; Inter-American Democratic Charter, articles 5, 27.

[9] For an analysis of permissible restrictions, see, inter alia, A/HRC/20/27, para. 15-17.

III. Freedom of peaceful assembly

16. The right to freedom of peaceful assembly, that is, to both organize and participate in indoor and outdoor peaceful assemblies, has long proven to be a key one in the context of elections. This right enables candidates to such elections to mobilize their supporters and give resonance and visibility to their political messages. Elections are also a unique opportunity for women, men and youth from all parts of society, to express their views and aspirations, either for status quo or for change, that is to say, to voice support for the Government and ruling party, or dissent. Dissent is a legitimate part of the exercise of the right to freedom of peaceful assembly, especially in the context of elections, as it is a unique opportunity for pluralist expression through peaceful means.

17. In this regard, as mentioned during the Human Rights Council panel discussion on the promotion and protection of human rights in the context of peaceful protests, the Special Rapporteur is of the opinion that participating in peaceful protests is an alternative to violence and armed force as a means of expression and change which we should support. It must thus be protected, and protected robustly (see A/HRC/19/40, para. 13). The Council shares this approach and stressed in its resolution 22/10 that peaceful protests should not be viewed as a threat, and therefore encouraged all States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes. The Council further stressed that everyone must be able to express their grievances or aspirations in a peaceful manner, including through public protests without fear of reprisals or of being intimidated, harassed, injured, sexually assaulted, beaten, arbitrarily arrested and detained, tortured, killed or subjected to enforced disappearance. This is all the more true in the context of elections when tension is at its highest with considerable political, economic and social interests at stake.

18. However, in many countries, elections have been marred by human rights violations and abuses. For instance, in September 2009, in Guinea, some 50,000 peaceful demonstrators gathered in a stadium to protest against the possible candidacy of Capitain Moussa Dadis Camara for the presidential elections of January 2010. Security forces opened fire and used bayonets and knives to disperse the crowd. More than 150 persons were killed, and over a thousand injured. Many individuals were arrested on the scene, at their home or in hospitals. In the Islamic Republic of Iran, in June 2009, following the declaration of victory for President Ahmadinejad, security forces killed several protestors when they peacefully took to the streets to contest the election results. Security forces opened fire during the demonstrations and used batons and pepper spray to disperse the crowds. Several hundred people were arrested during the protests following the presidential elections of 2009. In the Russian Federation, peaceful protests against alleged fraudulent elections in the context of parliamentary elections held in December 2011 were met with excessive use of force, with over a thousand persons detained in various cities. Various acts of harassment, intimidation, arbitrary detention of several activists and members of the opposition also occurred in the context of the presidential protests on 6 May 2012. In the Bolivarian Republic of Venezuela, in the wake of the presidential elections of April 2013, peaceful demonstrations held in front of the offices of the national electoral commission in several states were met with brute force by security forces, along with arbitrary arrests. In Malaysia, security forces used indiscriminate force to repress a peaceful

protest organized by the Coalition for Fair and Free Elections (Bersih), which advocates for the reform of the electoral process in that country.

19. Apart from using excessive force against peaceful protesters, in some instances, States have criminalized the participation in and organization of peaceful assemblies during election time, with a view to sanctioning or deterring those willing or intending to do so. In Ethiopia, several peaceful demonstrators and human rights defenders were charged with "crimes of outrage against the constitutional order", and sentenced to life imprisonment for having participated in a demonstration against alleged fraud in the general elections of May 2005, in which over 190 protestors were reportedly killed by law enforcement authorities. After signing a statement admitting that their activities had been unconstitutional, they received a pardon and were freed. In the run-up to the legislative elections in Bahrain in September 2011, numerous human rights defenders and their relatives were arrested, dismissed from their jobs and subjected to intimidation and harassment for various politically motivated offences, including "participating in illegal gatherings". Following the presidential elections in December 2010 in Belarus, hundreds of persons protesting on election night were detained, including civil society activists, journalists, and opposition leaders, including presidential candidates. A peaceful protestor was subsequently sentenced to three years and six months in a labour colony on charges of mass disorder, for his participation in peaceful protests. He was initially detained for an administrative offence, but was later charged with a criminal offence, despite the fact that the police officer who had filed his arrest warrant stated in court that he had not actually seen him during the protest. Similarly, in the Russian Federation, charges of "mass disorder" have been pressed against peaceful protestors during election time. Many demonstrators were arrested and accused, inter alia, of "public intimidation" and "public incitation". Peaceful demonstrators in Azerbaijan have increasingly been targeted in the context of the forthcoming elections of October 2013, with several of them being arrested and/or fined. In Nepal in January 2006, four human rights defenders were arrested because of their involvement in the organization of large-scale peaceful demonstrations calling for a boycott of municipal elections scheduled for the following month.

20. The Special Rapporteur warns against the detention of peaceful demonstrators, with a view to preventing their participation in assemblies which are critical of the Government or ruling party. He is similarly concerned about restriction orders prohibiting demonstrators and defenders monitoring assemblies from remaining in, entering, or passing through a city, as occurred, for instance, in Malaysia in July 2011.

21. Fundamentally, the Special Rapporteur believes that all peaceful assemblies held during the electoral process, whether or not in support of the ruling party or the incumbent Government, should be entitled to equal treatment. Such assemblies should receive equal protection and facilitation from the State, in fulfilment of its positive obligation in this regard, irrespective of which category or group the demonstrators belong to. In this connection, the Special Rapporteur warns against the increased vulnerability of the aforementioned marginalized groups or groups most at risk from attacks, derogatory comments, stigmatization, and undue restrictions, with a view to serving political agendas, often from different parties. Some of them may also face the revocation of passports and work permits for having taken part in solidarity protests. As a consequence, peaceful assemblies organized by such groups, which may want to seize the opportunity of elections to draw attention to their respective plights, are adversely impacted. The Special Rapporteur is horrified by the aforementioned

incidents in Guinea in September 2009, where many women participating in the demonstration or present in the area were stripped naked and sexually assaulted, including by gang rape, both at the stadium and in detention. In Zimbabwe, demonstrators peacefully advocating women rights were brutalized in the context of elections. In the Islamic Republic of Iran, five students were among those killed by security forces in June 2009.

22. General Assembly laws, which are conducive to the enjoyment of the right to freedom of peaceful assembly, in compliance with international human rights law, should be applied to events related to the electoral process. In particular, these laws should allow and facilitate spontaneous assemblies, bearing in mind that greater tolerance is needed in times of elections, where diverse views and opinions are expressed.

23. A central part of the positive State obligation to protect those exercising the right to freedom of peaceful assembly is to ensure protection against agents provocateurs and counterdemonstrators, whose aim is to disrupt or disperse such assemblies. Such individuals include those belonging to the State apparatus or working on its behalf. The Special Rapporteur is concerned about the State's use of agents provocateurs to disrupt assemblies, as was reportedly the case in Senegal in January 2012, prior to the first round of the presidential elections. Similarly, greater efforts should be made to allow, protect and facilitate peaceful simultaneous assemblies, and peaceful counterdemonstrations, whenever possible. In sum, all forms of peaceful assemblies should receive greater protection and facilitation from the authorities.

24. In this regard, the Special Rapporteur recalls that the right to freedom of peaceful assembly does not require the issuance of a permit to hold an assembly. If necessary, a mere prior notification, intended for large assemblies or for assemblies at which some degree of disruption is anticipated, may be required. Spontaneous peaceful assemblies, which usually occur in reaction to a specific event — such as the announcement of results — and which by definition cannot be subject to prior notification, should be more tolerated in the context of elections. In addition, the Special Rapporteur considers laws establishing authorization procedures to be even more problematic in the context of elections, as authorization may be arbitrarily denied, especially when demonstrators intend to criticize Government policies. In the Sudan, a peaceful demonstration organized by an independent gubernatorial candidate for the April 2010 elections was curbed by police forces invoking the failure of the organizers to seek permission. Several protestors were arrested and/or injured by security forces.

25. On the contrary, elections should never be seen as a pretext for States to unduly restrict the right to freedom of peaceful assembly. As previously mentioned, blanket bans, which are intrinsically disproportionate and discriminatory, should be prohibited, and restrictions on a peaceful assembly in relation to its "time, place and manner" should be limited to the extent that such restrictions meet the aforementioned strict test of necessity and proportionality (see A/HRC/23/39, para. 59). In fact, given the importance of the rights to freedom of peaceful assembly and of association in the context of elections, the threshold for imposing such restrictions should be higher than usual: the criteria of "necessity in a democratic society" and "proportionality" should be more difficult to meet during election time. In this regard, the Special Rapporteur is dismayed that blanket bans have been used during election time, with a view to muzzling dissenting voices. In Kenya, in March 2013, following the results of the

presidential elections, the police chief reportedly banned all public gatherings, including "illegal groupings" around the Supreme Court, prayer meetings, political meetings and rallies, until a petition challenging the presidential poll results was heard and decided upon. That decision was reportedly based on the fact that demonstrations may have triggered animosity and violence. When justified, "time, place and manner'" restrictions which comply with international human rights norms and standards should be applied equally, once again, whether the peaceful assembly is in favour of or against the Government and the ruling party.

26. The Special Rapporteur further warns against imposing a state of emergency during election time, in order to temporarily suspend the rights to freedom of peaceful assembly. Should this nevertheless occur, he recalls that, according to the Human Rights Committee, during a state of emergency, the rights to freedom of peaceful assembly and of association should not be derogated since the possibility of restricting certain Covenant rights under the terms of, for instance, freedom of assembly, is generally sufficient during such situations and no derogation from the provisions in question would be justified by the exigencies of the situation.[10]

27. The Special Rapporteur recalls that organizers of peaceful protests should not bear responsibility for the unlawful behaviour of others, including in times of elections. In Malaysia, in May 2012, the federal Government announced that it would sue the organizers of the Bersih 3.0 rally of 28 April 2012 calling for free and fair elections, in relation to property which was allegedly destroyed during the said rally.

28. It is also important to allow the unimpeded access to and use of the Internet, in particular social media, and other information and communication technology, which are essential tools, especially in times of elections, by which the right to freedom of peaceful assembly can be exercised, but also monitored and reported upon in relation to human rights violations and abuses. In the Islamic Republic of Iran, in the context of the presidential elections of 2009, access to social media was temporarily blocked across the country, since many bloggers reported on violations against peaceful protestors and foreign media were denied access. In Nepal, in relation to the aforementioned demonstration, telephone lines and mobile phones were cut off in Kathmandu and other major cities by the Nepalese authorities.

29. The Special Rapporteur finally emphasizes again the crucial role played by human rights defenders, including journalists, who monitor assemblies and who have been targeted in the context of elections. In Belarus, in December 2010, the Chair of the Belarusian Helsinki Committee, among other activists, was arrested and detained by security forces while observing a demonstration organized by an opposition candidate, which was held in front of the Government headquarters. He was taken to pre-trial detention facility before being placed in police custody. In Malaysia, media personnel covering a protest organized by Bersih were allegedly targeted by security forces, while documenting police brutality, despite clearly identifying themselves as media personnel.

[10] General comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency, para. 5.

IV. Freedom of association

A. Political parties

30. Everyone has the right to form or join a political party and conversely, no one should be compelled to belong to a political party. The Human Rights Committee, in its general comment No. 25 (para. 26), has stated that political parties and membership in parties play a significant role in the conduct of public affairs and the election process. Political parties are indeed the primary vehicles through which people can participate in the conduct of public affairs. The Special Rapporteur recognises political parties as a subset of associations included in the right to freedom of association enshrined in article 22 of the International Covenant on Civil and Political Rights. As such, the principles and minimum standards elaborated by the Special Rapporteur in his thematic report on best practices (A/HRC/20/27) generally apply to the regulation of political parties. Nevertheless, political parties are organizations formed to carry out particular objectives, that is, presenting candidates for elections in order to be represented in political institutions and to exercise political power on any level, national or local,[11] and may therefore be subject to specific requirements not necessary for other civil society organizations. According to the European Court of Human Rights, it is in the nature of the role they play that political parties, the only bodies which can come to power, also have the capacity to influence the whole of the regime in their countries. By the proposals for an overall societal model which they put before the electorate and by their capacity to implement those proposals once they come to power, political parties differ from other organizations which intervene in the political arena.[12]

31. The Special Rapporteur agrees with the Human Rights Committee, in paragraph 19 of general comment No. 25, that freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected and that States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights thereunder. As the Special Rapporteur noted previously, a minimum number of individuals may be required to establish a political party, but this number should not be set at a level that would discourage people from engaging in associations (A/HRC/20/27, para. 54). Other requirements might be in force, such as concerning geographic or ethnic representation, but the Special Rapporteur warns against this type of measure that is ultimately discriminatory to the formation of any political party. A registration regime is not necessary for the formation or operation of political parties, but where it is in place, it should never be subject to authorities' prior approval.

32. In the light of the fact that political parties have a decision-making role in ensuring pluralism and the proper functioning of democracy, a presumption in favour of formation of political parties means that adverse decisions should be strictly justified in accordance with the standards established by article 22 of the International Covenant on Civil and Political Rights in relation to proportionality and necessity in a democratic society. As for the right to freedom of peaceful assembly, the Special

[11] European Commission for Democracy through Law, Venice Commission, Code of conduct of good practice in the field of political parties, 2009, CDL-AD(2009)021.

[12] European Court of Human Rights, *Refah Partisi (The Welfare Party) and Others v. Turkey*, Application Nos. 41340/98, 41342/98, 41343/98, 41344/98, 13 February 2003, para. 87.

Rapporteur believes that the proportionality and necessity test should be stricter in times of elections. In 2011, concerns were expressed about the case of a few Saudi citizens who submitted a request for recognition of what could have been Saudi Arabia's first political party, and who were a few days later arrested and requested to sign an undertaking that they would renounce their activities with the party. Those who refused to do so were placed in detention. The Special Rapporteur considers this to be an example of a blatant violation of the right to freedom of association. By all means, political parties whose applications have been rejected should be provided the opportunity to seek remedy before an independent and impartial court (A/HRC/20/27, paras. 60-61).

33. Political parties are entitled to a level playing field in order to compete fairly in the electoral contest. A level playing field does not mean that all parties should have the same treatment in every case; rather, they should receive equitable treatment based on reasonable and objective criteria. All parties complying with international human rights norms and standards are entitled to equality of opportunity. As such, at a minimum, no political party should be discriminated against, unfairly advantaged or disadvantaged by the State. In the present report, the Special Rapporteur emphasizes equality of opportunity for political parties in respect of their ability to access funding and to exercise their rights to freedom of expression, including through peaceful demonstrations.

34. In his second thematic report (A/HRC/23/39), the Special Rapporteur identified the ability of associations to access financial resources as an integral element of the right to freedom of association. The question of funding has far-reaching consequences on the right to freedom of association for political parties in the context of elections. Funding ensures that political parties are able to function on a day-to-day basis, to participate in the political arena, to represent a plurality of views, interests and perspectives, thus strengthening democracy. Funding may also have perverse effects on democratic potential, requiring certain regulation. The Special Rapporteur shares the view of the Human Rights Committee, in general comment No. 25 (para. 19) that reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.

35. Some overarching principles could be drawn upon to guide the development and operation of political party financing rules. Public financing of political parties is often used as an avenue to provide equality of opportunity to all parties and guarantee competitive participation of diverse ideas and views. Public funding principally benefits parties that are unable to otherwise raise private funds for any number of reasons, including because they are smaller parties, or their ideology does not appeal to a majority of would-be donors, or those that represent marginalized groups, such as women and youth. Hence, public funding should not be used to interfere with a party's independence and further or create overdependency on State resources.[13]

36. More broadly, party resources should be differentiated from public resources. Public resources should not be used to tilt the electoral playing field in a party's favour and in particular the incumbent party or its candidates. This principle extends

[13] OSCE/Office for Democratic Institutions and Human Rights and the Venice Commission, *Guidelines on Political Party Regulation*, 2010, paras. 176-177.

to the use of State institutions, such as police forces, the judiciary, the prosecutorial authority, law enforcement agencies and others, which should be impartial when controlling or limiting the activities of political parties, such as by initiating politically motivated court cases against rival candidates, in effect, preventing them from engaging in campaign activities.

37. Pluralism is a hallmark of democracy with political parties as catalysts for debate and dialogue in democratic societies, such debate forming the basis of the voter's choice of representatives. The European Court of Human Rights considers that there can be no democracy without pluralism. It is for that reason that freedom of expression is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb.[14] In another landmark decision, the Court found a violation of freedom of association stating that mention of the consciousness of belonging to a minority and the preservation and development of a minority's culture cannot be said to constitute a threat to "democratic society", even though it may provoke tensions. It further stated that the emergence of tensions is one of the unavoidable consequences of pluralism, that is to say the free discussion of all political ideas.[15]

38. Political parties thus, have the freedom to choose and pursue ideologies, even if these are unpopular with the authorities or the public in general, including the ability to call for a boycott of elections, without fearing retaliation for doing so. The freedom of political parties to expression and opinion, particularly through electoral campaigns, including the right to seek, receive and impart information, is as such, essential to the integrity of elections. The Special Rapporteur recalls that, in its resolution 12/16, the Human Rights Council made clear that, in principle, no restriction is permissible with regard, inter alia, to: discussion of Government policies and political debate; reporting on human rights, Government activities and corruption in Government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups. The Special Rapporteur emphasizes that, only when a political party or any of its candidates uses violence or advocates for violence or national, racial or religious hatred constituting incitement to discrimination, hostility or violence (art. 20, International Covenant on Civil and Political Rights, also reflected in art. 5 of the International Convention on the Elimination of All Forms of Racial Discrimination),[16] or when it carries out activities or acts aimed at the destruction of the rights and freedoms enshrined in international human rights law (art. 5, International Covenant on Civil and Political Rights), can it be lawfully prohibited.

39. Central to the freedom of expression of political parties is the opportunity for them to have equal access to the media, particularly where the latter is State-owned or controlled. Legislation should provide a clear framework for the implementation of equal access to media, including during the campaign period. For example, all parties presenting candidates for elections are entitled to coverage by public media, and in this regard, the allocation of free media time ensures that all political parties,

[14] European Court of Human Rights, *Handyside v. United Kingdom*, para. 49.

[15] European Court of Human Rights, *Ouranio Toxo v. Greece*, Application No. 74989/01, 20 October 2005, para. 40.

[16] See http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13584&LangID=E.

including small parties, are able disseminate their views and ideas.[17] The allocation of media time before an election should be equal, on the basis of the principles on equality before the law and non-discrimination. Denying specific parties' access to public media or providing biased coverage based on, for example, the unacceptability of the party or candidate's views is incompatible with the rights to freedom of association and expression. Attention should be paid to the distinction between access to the media as a political party and access to media as State officials due to the potential for unfair advantage that arises out of incumbent political parties using media coverage of official duties as a campaign platform.

40. Since the inception of his mandate, the Special Rapporteur has received numerous allegations to the effect that, during electoral periods, political leaders and supporters, particularly from the opposition, face heightened risks. Prior to, during and after an election, those who voice or have voiced dissent are in many countries subject to, inter alia, harassment, intimidation, corruption attempts, reprisals, arbitrary arrests and imprisonment, solely on account of their political opinions or beliefs. In this respect, the Special Rapporteur is disturbed about the case of an opposition leader from Belarus who was subject, in 2011, to a harsh sentencing, after he participated in a rally protesting the outcome of the presidential elections on 19 December 2011. In the Islamic Republic of Iran, concern was expressed in relation to former presidential candidates who staged a rally in solidarity with protesters in Egypt, for which they had sought permission from the authorities, and who have been kept largely "incommunicado" in their homes since February 2011.

41. Political parties and their members unduly restricted from exercising their right to free association should have recourse to prompt and effective remedies. The Special Rapporteur again stresses that States have an obligation to provide independent and impartial institutions, including electoral management bodies and media regulatory authorities, in addition to an independent judiciary, to ensure that electoral processes are not exploited, thereby creating an uneven playing field for any political party. In order to be effective, the regulatory body should be independent from executive powers, be empowered and have adequate capacity to formulate, monitor and enforce regulations. These are the key conditions for ensuring the respect of the right to freedom of association in the context of elections.

B. Civil society organizations

42. Civil society organizations have also an important role to play in the context of elections. The role of civil society in contributing to and sustaining a robust democracy cannot be underestimated. In different capacities, organizations undertake various activities to advocate for the concerns and interests of their beneficiaries, to contribute to ensuring the integrity of the electoral process, to further contribute to the achievement, protection and strengthening of democratic goals and standards, and to keeping authorities accountable to the electorate. Among other things, civil society organizations promote political participation, undertake voter education, campaign for good governance reforms, provide vehicles for the expression of different interests, but also act as platforms that cut across tribal, ethnic, linguistic and other barriers, and catalyse public debate on issues that affect them.

[17] OSCE/Office for Democratic Institutions and Human Rights and the Venice Commission, *Guidelines on Political Party Regulation*, 2011, para. 147.

43. The Special Rapporteur stresses that the right to freedom of association necessarily entails the freedom of associations to decide and engage in activities of their own choosing and this extends to those wishing to engage in election-related activities. Thus, among other liberties, associations have the freedom to advocate for electoral and broader policy reforms; to discuss issues of public concern and contribute to public debate; to monitor and observe election processes; to report on human rights violations and electoral fraud; to initiate polls and surveys, such as those conducted during the voting process; to freely access the media, including new media, such as the Internet; to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or online; to build coalitions and networks with other organizations, including from abroad; to engage in fundraising activities; to engage in election observation, voter education and the inspection of voters' rolls; to interact with international and regional human rights bodies; and to provide any forms of technical assistance and international cooperation.

44. Civil society organizations are inherently different from political parties, the ultimate objective of which is to promote candidates who will run for elections with the aim to govern. Thus, different regulations and restrictions are applicable to the former. In line with this, associations should not be compelled to register as political parties and conversely, they should not be denied registration as associations because they carry out what the authorities consider to be "political" activities. It is a source of serious concern that the term "political" has been interpreted in many countries in such a broad manner as to cover all sorts of advocacy activities; civic education; research; and more generally, activities aimed at influencing public policy or public opinion. It is clear that this interpretation is solely motivated by the need to deter any forms of criticism. In this regard, concern was expressed about the situation in the Russian Federation, where a human rights organization was the subject of an inspection from the Prosecutor's General Office, which claimed that the organization had engaged in "political activity" by "purposefully influencing the image of the electoral commissions and other State organs, through participation in the electoral process", after some members of the organization alleged irregularities during the December 2011 elections. The Special Rapporteur recalls that the right to freedom of association is itself a civil and political right facilitating the participation of all in decision-making of public affairs. Freedom of association provides individuals with unique opportunities to express their political opinions and to engage in cultural, economic and social activities. In fact, associations accused of engaging in "political" activities are often those that seek to keep Governments accountable, through good governance and rule of law initiatives, such as anti-corruption measures, human rights campaigns, institutional reforms and similar measures designed to strengthen democracy. The Special Rapporteur is of the view that labelling associations as "political", and on that basis associating them with opposition parties or preventing them from operating, is largely intended to silence voices that are critical of Government policies and practices.

45. Although civil society organizations play an essential role during election time, freedom of association is, in many countries, restricted before, during and after elections. As noted by the Special Rapporteur on the situation of human rights defenders, acts of intimidation against civic activists often start long before the beginning of election campaigns (A/HRC/13/22 para. 56). Restrictions placed on unregistered associations preventing them from taking part in activities related to the electoral process is one way of obstructing the work of independent voices. As the

Special Rapporteur has stated in previous reports, the right to freedom of association applies equally to associations that are not registered (A/HRC/20/27, para. 56). Because of their marginalization, women, youth, minorities, indigenous groups or persons with disabilities may form or join unregistered associations for the advancement of their interests. States should play an active role in removing barriers that keep these marginalized and disempowered groups from participating in public life and exercising their rights in the context of elections. This is vital to ensure that their voices are heard and their causes taken into account in the policies of the next Government.

46. The freedom of associations to engage in activities related to the electoral process should therefore be guaranteed to all associations, whether they are apolitical in their means and operations, partially or totally supportive of the Government or express criticism of Government policies. Hence, no associations should be compelled to express support for any electoral candidate. Nevertheless, it is important for any organization which voluntarily supports a particular candidate or a party in an election to be transparent in declaring its motivation, as its support may impact on elections' results. The Special Rapporteur is of the view that the strength of a democracy can be gauged by the extent to which diverse views and differing opinions are accommodated and even encouraged in public debate.

47. The right to freedom of association is an essential component of democracy that empowers men and women and is therefore particularly important where individuals may espouse minority or dissenting religious or political beliefs (Council resolution 15/21, preamble). As such, no restrictions should be placed on associations, solely because they do not share the same views as those in authority.

48. Governments in many countries are increasingly imposing restrictions on civil society's ability to engage in the establishment of transparent, accountable and fair democratic machinery and also from undertaking activities such as election monitoring and voter mobilization. Barriers include the prohibition for certain groups to register as associations; the prohibition from carrying out some activities where a restrictive list of authorized activities is not provided by the legal framework; the obligation to adopt negative labels; the denial of accreditations to associations to observe and monitor elections; or even the imposition of sanctions or threats of sanctions for engaging in activities related to the electoral process. In the Russian Federation, the implementation of the 2012 Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations Performing the Function of Foreign Agents, the compliance of which with international standards is analysed in depth in the Special Rapporteur's second thematic report to the Human Rights Council (A/HRC/23/39), has led to audits and inspection campaigns against numerous civic organizations that have conducted "political activities" and have failed to register as a "foreign agent". One of them, Golos Association for the defence of the rights of voters, whose Internet website was hacked in the run-up to the parliamentary elections, was, in April 2013, the first organization to be penalized under the new law.

49. As described in previous reports by the Special Rapporteur, any restrictions must be permitted by international law, and thus meet the strict requirements of international human rights law. In the context of elections, the Special Rapporteur believes that the test threshold should be raised to a higher level. It is therefore, not sufficient for a State to invoke the protection of the integrity of the election process,

the need to ensure non-partisan and impartial elections, the need to preserve peace or security to limit these rights, insofar as the context of elections is a critical time when individuals have a say about the fate of their country. In this regard, the Human Rights Committee stated that the reference to "democratic society" in the context of article 22, indicates in the Committee's opinion, that the existence and operation of associations, including those which peacefully promote ideas not necessarily favourably viewed by the Government or the majority of the population, is a cornerstone of a democratic society.[18]

50. In some cases, State interference does not occur when an association is formed, but while an association is carrying out its activities. Often, restrictions occur when authorities are faced with minority or dissenting views, or even when authorities fear being held accountable for their failure to respect human rights. In Zimbabwe, the offices of the Election Support Network, a coalition of 31 non-governmental organizations formed in 2000 to promote free and fair elections, were arbitrarily searched, on the grounds that the organization allegedly had "subversive material, documents, gadgets or recordings and had contravened the Immigration Act". These searches have been perceived by civil society actors as an attempt to intimidate and silence their voices in the context of the 2013 referendum and elections.

51. It is disturbing that in the context of elections, some States resort to intimidation, harassment, civil and criminal defamation, or threats against associations' leaders who aim to express their opinions, grievances and aspirations. The Special Rapporteur expresses grave concerns about the following situations where international human rights norms and standards related to freedom of association were violated. In Malaysia, one of the leaders of the Coalition for Fair and Free Elections who has monitored the 2013 elections in the country, had been, on various occasions, the target of severe and sustained acts of harassment, intimidation and smear campaign describing her as "an enemy who tried to smear the nation's name". In Nicaragua, human rights defenders active in associations, who expressed concerns over a decision of the Constitutional Court allowing for the re-election of the President were reportedly subjected to death threats, assaults and acts of intimidation. In Rwanda, a regional umbrella organization working on human rights issues in the country reportedly experienced threats and intimidation after it published a controversial report on legislative elections.

52. In other cases, civic activists faced arbitrary detention and long prison terms after unfair trials. In Belarus, where multiple home and office raids, arrests, trials and detention of numerous human rights defenders active in civic associations took place as a result of their legitimate human rights activities during the presidential elections in December 2010, including the sentencing of the Chairperson of the Human Rights Centre "Viasna" to four and one-half years in detention. In the Islamic Republic of Iran, a prominent lawyer was sentenced in 2011 to 11 years of imprisonment, which was later reduced to a six-year prison term, and a 10-year ban on practising as a lawyer for "propaganda against the State", "collusion and gathering with the aim of acting against national security" and "membership of the Defenders of Human Rights Centre". The accusations brought against the human rights lawyer were allegedly based on interviews she had had with media in relation to her clients, who had been imprisoned after the June 2009 presidential election in the Islamic Republic of Iran.

[18] Human Rights Committee, *Boris Zvozskov et al v. Belarus* (2001), CCPR/C/88/D/1039/2001, para. 7.2.

53. Activities that involve monitoring and observation of the conduct of election processes by international groups may also be subject to undue restrictions. In this context, it is worth recalling that the protection of State sovereignty against external interferences is not listed as a legitimate interest in article 22 of the International Covenant on Civil and Political Rights. The Special Rapporteur underscores the fact that States cannot refer to additional grounds, even those provided by domestic legislation, to restrict the right to freedom of association. Hence, restrictive measures imposed under this guise unduly limit associations in their free operations. Governments that exclude independent international observers from electoral processes by enacting legislation to this effect, by making the process of registering as an election monitor burdensome, or by inviting only friendly observation groups that will not be critical in their monitoring, thus diluting or countering any criticism by independent impartial groups, do not guarantee the right to freedom of association. The Special Rapporteur recognizes that elections constitute a significant event in the life of a nation and should be protected from foreign interference. Nevertheless, he also recognizes the need to establish clear, specific and objective criteria that would enable independent and impartial election observation by all monitors, including from abroad. In this regard, blanket restrictions on international election observers groups are inherently disproportionate and thus incompatible with international law standards.

54. In the run-up to elections or following contested elections, there may also be instances of Governments' blocking funding for civil society organizations, including those with mandates that are closely related to the conduct of elections. For instance, in the run-up to the 2013 elections, the Government of the Bolivarian Republic of Venezuela adopted the law against organized crime and terrorist financing, which restricts funding of "foundations, civic associations, non-profit associations, as well as associations having political ends or groups of individuals who run for elections". The Special Rapporteur, in his second thematic report (A/HRC/23/39), established access to funding for civil society organizations as an integral part of the right to freedom of association. He stated that any constraints on associations' ability to access foreign funding should be necessary in a democratic society and that common justifications offered by States, such as counter-terrorism measures, protection of State sovereignty, enhancement of aid effectiveness, and the improvement of transparency and accountability of civil society, often do not meet this strict standard.

55. Cases of arbitrary termination, suspension or closure of associations as a result of activities carried out in the context of elections are another source of concerns. In early April 2012, the Government of Swaziland deregistered the Trade Union Congress of Swaziland and declared it illegal, after some leaders of the organization called for the boycott of the 2013 elections. Such a drastic decision does not comply with international norms and standards pertaining to freedom of association, which make clear that termination, suspension or closure of associations are only possible by a court judgement based on clear and imminent danger when an association resorts to violence, or aims at the attainment of its objective by violence or by instigating discrimination, hostility or violence, or is aimed at the destruction of the rights and freedoms enshrined in international human rights law.

V. Conclusions and recommendations

56. The Special Rapporteur wishes to underscore the fact that electoral periods are a unique moment in the life of a nation to confirm, and even strengthen, democratic principles, such as non-discrimination, gender equality, pluralism of views and parity. Democracy is a singular way of allowing for effective popular participation in decision-making processes at both national and local levels. He stresses that electoral periods are such an important time to build democratic, responsive and accountable institutions and that very strict and clear safeguards should be put in place by States to prevent undue interference in public freedoms, in particular in the rights to freedom of peaceful assembly and of association. Further, in times of elections, States should make greater efforts to facilitate and protect the exercise of these core rights, which should be enjoyed by everyone, especially by members of groups at risk. In effect, genuine elections cannot be achieved if the rights to freedom of peaceful assembly and of association are curtailed.

57. The Special Rapporteur is deeply concerned about the increase in human rights violations and abuses in several parts of the world, committed against those who exercise or seek to exercise the rights to freedom of peaceful assembly and of association in the context of elections, which indelibly stain such elections. In the light of this, he wishes to make the following recommendations, which should be read in conjunction with those already formulated in his two thematic reports presented at the Human Rights Council in 2012 (A/HRC/20/27, para. 84-100) and 2013 (A/HRC/23/39, para. 81-83), some of which are reiterated here.

58. The Special Rapporteur calls upon States in times of elections:

(a) To recognize that the rights to freedom of peaceful assembly and of association play a decisive role in the emergence and existence of effective democratic systems, as they allow for dialogue, pluralism, tolerance and broadmindedness, where minority or dissenting views or beliefs are respected;

(b) To ensure that the rights to freedom of peaceful assembly and of association are enjoyed by everyone, any registered or unregistered entities, including women, those victims of discrimination because of their sexual orientation and gender identity, youth, persons belonging to minorities, indigenous peoples, non-nationals, including stateless persons, refugees or migrants, and members of religious groups, as well as activists advocating economic, social, and cultural rights;

(c) To ensure that no one is criminalized for exercising the rights to freedom of peaceful assembly and of association, nor is subject to threats or use of violence, harassment, persecution, intimidation or reprisals;

(d) To greater facilitate and protect the exercise of the rights to freedom of peaceful assembly and of association, and in this regard, be particularly vigilant in relation to the specific needs of the aforementioned groups which are at greater risk of attacks and stigmatization of all types;

(e) To ensure that an enabling framework is provided for political parties to be formed — regardless of their political ideology — and to enjoy the level playing field, in particular in relation to their ability to access funding, and to exercise their rights to freedom of expression, including through peaceful demonstrations and access to the media;

(f) To increase the threshold for imposing legitimate restrictions on the rights to freedom of peaceful assembly and of association, that is, to ensure that the strict test of necessity and proportionality in a democratic society, coupled with the principle of non-discrimination, is made particularly difficult to meet;

(g) To ensure that a well detailed and timely written explanation for the imposition of any restriction is provided, and that such restrictions can promptly be the subject of an independent and impartial judicial review;

(h) To provide individuals exercising their rights to freedom of peaceful assembly and of association with the protection offered by the right to freedom of expression;

(i) To allow unimpeded access to and use of information and communication technology through which the right to freedom of peaceful assembly and of association can be exercised;

(j) To ensure that those who violate and/or abuse the rights of individuals to freedom of association and of peaceful assembly are held fully accountable by an independent and democratic oversight body and by the courts of law;

(k) To ensure that victims of violations and abuses of the rights to freedom of peaceful assembly and of association have the right to a timely and effective remedy and obtain redress.

59. The Special Rapporteur calls upon national human rights institutions complying with the Paris Principles to play a key role in monitoring and publicly reporting on the fulfilment by the States of the abovementioned recommendations.

60. The Special Rapporteur calls upon election observers to place particular emphasis on the enjoyment of the rights to freedom of peaceful assembly and of association when determining whether an election was genuine.

61. The Special Rapporteur calls upon international and regional human rights mechanisms, including special procedures, treaty bodies and the universal periodic review, to pay specific attention to the issue of elections as a context where the rights of freedom of peaceful assembly and association are more likely to be curtailed.

62. The Special Rapporteur again encourages the Human Rights Committee to consider developing general comments on articles 21 and 22 of the International Covenant on Civil and Political Rights, with a particular focus on the enjoyment of both rights in the context of elections.

63. The Special Rapporteur calls upon the General Assembly and the Human Rights Council to address thoroughly the issue of human rights violations and abuses in the context of elections.

64. The Special Rapporteur calls upon the diplomatic community and other relevant stakeholders to publicly denounce violations and abuses committed against those exercising or seeking to exercise their rights to freedom of peaceful assembly and of association in the context of elections, and to provide support to these victims.